



ADMINISTRATIVE
COMMUNICATIONS SYSTEM
U.S. DEPARTMENT OF EDUCATION

DEPARTMENTAL DIRECTIVE

OPEPD:1-102

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Approved by: _____/s/_____
Christopher Marston
Acting Assistant Secretary for Management

**Upward Adjustments to Obligations in Expired Expenditure/Appropriation
Accounts**

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For technical questions regarding information in this directive, please contact Trina Lawson via e-mail or on 202-401-1055.

Supersedes OPEPD:1-102, Adjustments to Obligations in Expired Appropriation or Fund Accounts, dated 12/09/2005.

I. Purpose

This directive sets forth the policies and procedures for making **upward** adjustments to obligations in **expired** expenditure/appropriation accounts (“accounts”).

II. Policy

It is the policy of the U.S. Department of Education (ED) to comply with the provisions of Chapter 15, "Appropriation Accounting" of Title 31 (Money and Finance) of the United States Code. In accordance with this policy, note particularly section 1501 of the US Code, which sets out the documentary evidence requirements for government obligations; note also the 1990 amendments to sections 1551 through 1557 on closing accounts. Note also that, except as provided in Section IV.C. of this directive, it is the policy of ED that offices obtain Budget Service approval to make upward adjustments to obligations in expired accounts before recording such adjustments in the financial system.

III. Authorization

- A. Title 31 of the United States Code, particularly Chapters 13, “*Appropriations*”, and 15, “*Appropriation Accounting.*” Title 31, Chapters 13 and 15, can be found at:
<http://www.access.gpo.gov/uscode/title31/subtitleii.html>
- B. Office of Management and Budget (OMB) Circular A-11, “*Preparation, Submission, and Execution of the Budget.*” This circular can be found at:
www.whitehouse.gov/omb/circulars/index.html.
- C. U.S. Department of Education, “*Administrative Control of Funds Instructions,*” issued jointly by the Budget Service and the Office of the Chief Financial Officer on March 7, 2003, in compliance with OMB Circular A-11. The Instructions are accessible via ConnectED OCFO Procedures that Work:
http://connected3.ed/proceduresthatwork/attachments/ft02_Instructions.doc

IV. Applicability

- A. Except as described under paragraph C below, this directive applies to all **upward** adjustments to obligations made in **expired** accounts, including those associated with grant reinstatements. All ED officers, employees, organizations, and accounts are subject to the policies and procedures described in this directive. This includes Federal Student Aid (FSA) officers, employees, organizations, and accounts, as well as those of all independent boards and commissions funded by ED appropriations. This directive’s applicability to non-ED entities for which ED provides financial management services will be determined by the particular agreements made with those entities.

B. This directive does NOT apply to:

1. adjustments to obligations in **unexpired** accounts; or
2. **downward** adjustments to obligations in expired or unexpired accounts; although the availability of funds to make upward adjustments in expired accounts often depends on the timely processing of downward adjustments of obligations to their final expenditure levels.

C. Exceptions: The requirement that offices obtain approval from the Budget Service before making upward adjustments to obligations in expired accounts does not apply to the adjustments described below, as long as there is sufficient funding available in the proper funding source. If sufficient unobligated funding is not available to make the adjustment, Principal Offices (POs) should contact the Budget Service for help in determining the most appropriate alternative source of funds before making upward adjustments to obligations.

1. Adjustments to obligations for the Federal Student Aid Campus-Based and Pell Grants programs.
2. Adjustments to obligations for Impact Aid formula grant programs.
3. Adjustments to obligations for Government Printing Office (GPO) printing.
4. Grant transfers made in accordance with the Handbook for the Discretionary Grants Process and processed using the Grant Transfer function in the Grant Administration and Payments System (GAPS).
5. Obligation increases that are \$500 or less, cumulative, per award document. (POs are encouraged to establish internal review and approval procedures for these adjustments.)
6. Penalty interest payments required by the Prompt Payment Act (Code of Federal Regulations (CFR), Title 5, Part 1315). Penalty interest payments are calculated automatically and are posted along with the late payments that trigger them. They can exceed the allotment and limitation levels, resulting in a negative limitation balance. When this occurs, POs should work with the Budget Service to resolve the negative balances, possibly through an allotment adjustment or finding another appropriate funding source, even if it means using a current year source.

D. No adjustments of obligations are to be made, requested, or approved in closed accounts (where balances have been canceled pursuant to Chapter 15 of Title 31 of the United States Code). (See definition of a [closed account](#) in Section V. F. below.) If valid payment requests are received against orders from accounts that have been closed, the amount needed to make the payments must be obligated in, and paid from, current (unexpired) accounts, using the special limitations established for this purpose. Title 31 provides that up to 1 percent (1%) of the current appropriation may be used for such payments. Contact the Budget Service policy analyst for guidance.

V. Definitions

A. **Account.** An account is a separate financial reporting unit established by the Department of the Treasury (“Treasury”) for budget, management, and/or accounting purposes that is used to record appropriations and other budgetary resources provided by law and financial transactions affecting the account. Each account represents an authorization by law that permits a Federal agency to incur obligations and make payments out of the Treasury for specific purposes. Separate accounts are established for each annual, multi-year, and no-year appropriation, which identify the fiscal year(s) for which the amounts are available for Federal obligation. Accounts are used to record outlays and income and are comprised of monies collected and spent by the Federal Government. These accounts are commonly referred to as expenditure/appropriation accounts or Treasury Appropriation Fund Symbols (TAFS). Accounts are classified with respect to their status and the availability of their balances:

1. closed (with all balances cancelled);
2. expired (with unobligated balances available only for allowable adjustments to existing obligations); and
3. unexpired (with balances available for new obligations).

B. **Adjustments to Expired Accounts.** (See also “Account,” “Obligation,” and “Obligation Adjustments.”) Adjustments to expired accounts are increases or decreases to obligations or expenditures incurred in accounts that are no longer available for incurring new Federal obligations. Adjustments include the recording of obligations or expenditures that were made before the account expired but not recorded in the financial system. Adjustments are made for the difference between the original and revised amounts of the obligation. Examples of situations that may warrant **upward** adjustments include:

1. Final rent costs in excess of the amount obligated on the basis of estimates.
2. Grant re-instatements following a determination that a grant was prematurely closed.
3. Increases due to an allowable cost overrun of a contract award for an upward variance in indirect cost rates.
4. Authorized travel taken but not properly recorded.
5. Increases due to shipment costs that were not included in the original contract estimates.

C. **Annual Account.** An expenditure/appropriation account with funds that are available for obligation during only one specific fiscal year and that expires at the end of that fiscal year.

D. **Appropriation.** A provision of law authorizing Federal agencies to incur obligations and to make payments from Treasury for specified purposes.

- E. **Budget Authority.** Authority provided by law to enter into financial obligations that will result in immediate or future outlays of Federal funds. The basic forms of budget authority are appropriations, borrowing authority, contract authority, and authority to obligate and expend receipts and collections.
- F. **Closed Account.** An account for which the fund balances have been canceled pursuant to Chapter 15 of Title 31 of the United States Code, which, in general, states that an account available for a definite period is canceled five fiscal years after its availability for Federal obligation ends. Once balances are canceled, the amounts are returned to Treasury and are not available for obligation or expenditure for any purpose. To illustrate the timing:
1. An annual appropriation available for obligation in fiscal year 2001 is canceled on September 30, 2006.
 2. An annual appropriation available for obligation in fiscal year 2002 is canceled on September 30, 2007.
 3. A multi-year appropriation (e.g., the Student Financial Assistance account 91 0/1 0200) available for obligation in fiscal years 2000 and 2001 (as indicated by the 0/1 in the appropriation symbol) is canceled on September 30, 2006.

An account available for an indefinite period (no-year account) is canceled if: (1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and (2) no disbursement has been made against the appropriation for two consecutive fiscal years.

- G. **Contracting Officer.** Contracts & Acquisitions Management (CAM), Office of Federal Student Aid (FSA) Acquisitions, or Principle Office Executive Office for simplified acquisitions under \$25,000, for the solicitation, award, administration, and closeout of all contracts and other acquisition instruments.
- H. **Current Account.** An account that is available for incurring new Federal obligations. This includes no-year accounts and unexpired annual and multi-year accounts.
- I. **Executive Officer.** Executive Officers (and equivalent PO officers) have the day-to-day general responsibility for financial management of the programs and activities in their PO. These responsibilities normally include: coordinating the financial management activities of their PO, including the appropriate distribution of information and documents; determining the availability of allotments of funds for commitments and obligations; authorizing or recording commitments and obligations in appropriate financial systems; preparing operating plans for, and monitoring the budget and financial execution of, programs and activities; accepting goods and services; and reviewing (and certifying if necessary) financial documents and reports that show the status of funds allotted to their PO. For purposes of this directive, references to the Executive Officer include other equivalent PO officers.
- J. **Expired Account.** An account in which the fund balances are no longer available for incurring new Federal obligations because the time period for which the funds were

available for incurring those obligations has ended. Expired accounts are maintained by fiscal year identity for five years. During this period, the fund balance is available for legitimate adjustments to obligations properly chargeable to the expired accounts, recording obligations made but not properly recorded, and liquidating unpaid obligations.

- K. **Fund [Code]**. For purposes of this directive, the fund [code] represents the “fund” as commonly referred to in the Department’s Financial Management System and is comprised of a nine character code that represents the account, period of availability, and funding fiscal year (e.g., 0800A2006).
- L. **Liquidate [obligations]**. For purposes of this directive, to liquidate [obligations] means to make payments pursuant to obligations incurred.
- M. **Multi-year Account**. An account with appropriated funds available for obligation for a specified period of time in excess of one fiscal year and that expires at the end of that specified period of time.
- N. **No-year Account**. An account with appropriated funds that remain available for obligation for an indefinite period of time. The account does not expire.
- O. **Obligated Balance/Unliquidated Obligation**. The amount of obligations incurred for which payment has not yet been made (i.e., total obligations in the account, less the paid obligations).
- P. **Obligation**. Orders placed, grants or contracts awarded, services received, and similar transactions that will require payments during the same or a future period. Obligations incurred also include outlays for which obligations have not previously been recorded and, for purposes of this directive, adjustments to obligations. See [Appendix A](#) for a complete definition and the criteria for recording an obligation. Adjustments to obligations must meet the same criteria.
- Note: A legal obligation may be incurred whether or not it is recorded in ED’s financial systems. On the other hand, recording a transaction does not always mean that an obligation has been incurred.
- Q. **Obligation Adjustments**. For purposes of this directive, obligation adjustments have the same meaning as adjustments to expired accounts. This directive does not cover obligation adjustments to unexpired accounts.
- R. **Outlay**. In budgetary terms, the amount that is actually paid or disbursed (by cash, check, or electronic transfer of funds) to liquidate an obligation. Expenditure transfers to other Federal Government agencies and credit card payments are also outlays. Outlays are a measure of government spending.
- S. **Principal Office (PO)**. A major organizational unit of ED (usually headed by an Assistant Secretary or Assistant Deputy Secretary) that is responsible for administering certain activities and/or programs. For purposes of this directive, the term includes FSA and independent boards and commissions that are funded by ED appropriations.

- T. ***Unexpired Account.*** See definition of [Current Account](#).
- U. ***Unobligated Balances.*** The portion of budget authority in an account that has not been obligated. Unobligated balances in expired accounts are not available for incurring new obligations and may only be used for legitimate adjustments to obligations properly chargeable to the expired accounts and recording obligations made but not properly recorded.
- V. ***Unrecorded Obligations.*** Transactions that meet the criteria for valid obligations but that have not been officially recorded in ED's financial system.

NOTE: See ED's Administrative Control of Funds Instructions for additional definitions that may be helpful in understanding the requirements of this directive. (See [Section III. C.](#))

VI. Responsibilities

A. *The Principal Office:*

1. determines
 - a. whether there is truly a need for an upward adjustment to an existing obligation in an expired account;
 - b. whether there funds available for the upward adjustment; and
 - c. if there are funds available, whether those can properly be used for the adjustment.

When the PO is uncertain, the PO may contact OGC or the Budget Service for help in making these determinations.

2. submits a request to use prior year funds to the PO's Executive Officer.

B. *The Executive Officer:*

1. reviews the request for use of prior year funds and verifies the need for an upward adjustment and the availability of the prior year funds;
2. submits to the [Budget Execution Analysis Branch \(BEAB\)](#) the BS-020 Form requesting use of expired funds, documentation validating the prior year obligation, and a Status of Funds Report showing an available unobligated balance; and
3. after receiving approval from BEAB, ensures that the obligation adjustment is recorded in the appropriate financial system (e.g., GAPS or CPSS) following established PO and ED obligation procedures.

C. *Budget Service:*

1. analysts review requests to use prior year funds and assist in identifying funds available for adjustments; and
 2. **BEAB Chief** approves or disapproves the use of prior year funds based on the documentary evidence provided.
- D. **Contracting Officer:** The *cognizant* contracting officer, (who may be in CAM, FSA, or, for certain simplified acquisitions, in the PO) assists the PO staff as necessary when the obligations for a contract or a purchase order need to be adjusted pursuant to this directive.
- E. **The Office of the Chief Financial Officer (OCFO)** issues manuals, procedures, and guidelines for the processing of obligations in ED financial systems using funds in expired accounts.
- F. **The Office of the General Counsel (OGC), Division of Business and Administrative Law (DBAL)** provides a legal determination of the validity of using funds in expired accounts to make obligation adjustments.
- G. **Program Office Staff** have been delegated the authority to make obligations in some POs. In these instances, some of the responsibilities of the Executive Officer outlined in B., above, are shared with Program Officers in accordance with established PO policies and procedures.

VII. Procedures and Requirements

- A. Principal Office staff determine when an upward adjustment to an existing obligation in an expired account is needed. This determination may be based on the office's routine account reviews or requests from, or information provided by, OCFO or Budget Service. After determining that the adjustment meets the criteria for recording an obligation (see [Appendix A](#)), following established PO procedures, the office notifies its Executive Officer of the need for the adjustment and provides the necessary documentation that a valid obligation exists that needs to be adjusted.
- B. The Executive Officer verifies that an upward obligation adjustment is needed; determines whether it is legally chargeable to the account from which the obligation was made; and determines whether unobligated funds are available for the program or activity in that account. In most instances, funds must be available within the same fiscal year(s) covered by the account in which the original obligation was made.
1. If there is a question of whether the upward adjustment meets the legal criteria for valid prior year obligation adjustments, the Executive Officer consults OGC/DBAL for advice.
 2. If appropriate unobligated funds cannot be identified, the Executive Officer consults the Budget Service policy analyst for help in determining the availability of alternative sources of funds in expired or current accounts to make valid upward adjustments. In some cases the Budget Service can deallot unneeded unobligated funds from one

office and reallocate them to another office, thus making them available to the office that needs them for an upward adjustment.

- C. The Executive Officer signs and submits a Memorandum Request for Use of Expired Funds (Form: BS-020), accompanied by documentation supporting the request. The form is accessible on the EDCAPS Reports website: <http://edcapsrpt-c/>. Select Financial Forms, Budget Service (EEB), BS-020.
1. To the extent possible, the documentation should consist of copies of existing materials and not require the preparation of new material or lengthy justifications. For example, the Executive Officer should provide copies of grant award notifications, travel authorizations, purchase orders (OF-347), etc. that indicate an obligation was incurred.
 2. In the case of requests for grant re-instatements in expired accounts, copies of documentation showing the original award, any amendments to the original award, and the grantee's written request or justification must be provided.
 3. For requests to record an obligation incurred but not previously recorded, a copy of the original obligation document or notice must be provided.
 4. An up-to-date printout of a Status of Funds report (see [Appendix B](#)) must be provided showing that an available unobligated balance exists to make the upward adjustment.
 5. A copy of any written advice provided by OGC should be attached.
- D. The Budget Service analyst verifies that the requested upward adjustments are valid obligations properly chargeable to the fund indicated, and that unobligated balances are available within the OMB-apportioned level for the program or activity in the fund to be charged. The analyst forwards the request to the BEAB Chief for approval.
- E. The BEAB Chief reviews the request for use of expired funds, including material documenting the existence of a valid obligation and available funds, and either:
1. Approves the request, issues any allotment changes needed, and returns the request form to the Executive Officer for completion of the steps required to obligate the funds; or
 2. Disapproves the request and returns the request form to the Executive Officer, suggesting alternative methods of funding the obligation adjustment, such as the use of funds from a current account.
- F. If the request for the use of funds in an expired account is approved, the Executive Officer follows established PO and ED procedures to ensure the obligation of the funds in the appropriate financial system.

Appendix A

Documentary Evidence Requirement for Government Obligations

- (a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of--
- (1) a binding agreement between an agency and another person (including an agency) that is--
 - (A) in writing, in a way and form, and for a purpose authorized by law; and
 - (B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;
 - (2) a loan agreement showing the amount and terms of repayment;
 - (3) an order required by law to be placed with an agency;
 - (4) an order issued under a law authorizing purchases without advertising--
 - (A) when necessary because of a public exigency;
 - (B) for perishable subsistence supplies; or
 - (C) within specific monetary limits;
 - (5) a grant or subsidy payable--
 - (A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;
 - (B) under agreement authorized by law; or
 - (C) under plans approved consistent with and authorized by law;
 - (6) a liability that may result from pending litigation;
 - (7) employment or services of persons or expenses of travel under law;
 - (8) services provided by public utilities; or
 - (9) other legal liability of the Government against an available appropriation or fund.
- (b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

Appendix B

(Sample) Summary Status of Funds Report

U.S. Department of Education Summary Status of Funds Report										As of Date: 27-NOV-07 12:16:30 Page: 2 of 2	
Fund:	0900M2006	Period From:	Organization:	ESYR0000	Report Type:	Summary					
Bfy:	2007	Period To:									
FUND	FCL	ORG	LIN	ACT	Allot / Sub-Allot	Calc Budget Amt	Commitment	Obligation Unpaid	Obligation Paid	Available Balance	
0900M2006	0	ES	F30		300,000.00	300,000.00	0.00	0.00	299,999.49	0.51	
			F31		1,537,631,170.00	1,537,631,170.00	0.00	0.00	1,537,631,170.00	0.00	
			F32		11,714,167.00	11,714,167.00	0.00	11,714,167.00	0.00	0.00	
			F34		2,247,144,570.00	2,247,144,570.00	0.00	106,531,381.67	2,140,613,188.33	0.00	
			F35		881,166.00	881,166.00	0.00	0.00	881,166.00	0.00	
			F36		3,567,913.00	3,567,913.00	0.00	3,567,913.00	0.00	0.00	
			F37		250,000.00	250,000.00	0.00	250,000.00	0.00	0.00	
			F40		1,351,380,690.00	1,351,380,690.00	0.00	181,152,986.62	1,170,227,703.38	0.00	
			F41		2,247,144,570.00	2,247,144,570.00	0.00	1,077,432,968.03	1,169,711,601.97	0.00	
			F44		1,485,000.00	1,485,000.00	0.00	1,377,487.27	107,512.73	0.00	
			F47		2,492,126.00	2,492,126.00	0.00	2,386,431.25	105,694.75	0.00	
			F48		1,500.00	1,500.00	0.00	0.00	1,500.00	0.00	
			F53		1,220,000.00	1,220,000.00	0.00	1,206,492.21	13,050.70	457.09	
			F54		2,557,377.00	2,557,377.00	0.00	2,330,114.96	227,262.04	0.00	
			F56		169,748.00	169,748.00	0.00	169,748.00	0.00	0.00	
			F60		11,228,224.00	11,228,224.00	0.00	11,052,162.00	176,061.72	0.28	
			F63		702,785.00	702,785.00	0.00	699,361.00	3,424.00	0.00	
			F68		6,547,790.00	6,547,790.00	0.00	5,324,688.70	1,223,221.75	(120.45)	
			F80		39,558,429.21	39,558,429.21	0.00	37,127,301.00	2,431,128.00	0.21	
			F82		1,463,146.00	1,463,146.00	0.00	1,463,146.00	0.00	0.00	
			F84		3,573,400.00	3,573,400.00	0.00	3,573,400.00	0.00	0.00	
			F85		13,429,731.00	13,429,731.00	0.00	12,977,570.40	185,301.17	266,859.43	
			F90		22,446,906.81	22,446,906.81	0.00	19,932,043.04	2,514,862.96	0.81	
TotORG					7,506,890,409.02	7,506,890,409.02	0.00	1,480,269,362.15	6,026,353,848.99	267,197.88	
TotFNE					7,506,890,409.02	7,506,890,409.02	0.00	1,480,269,362.15	6,026,353,848.99	267,197.88	